

## § 982.2

standards. If the PHA approves a family's unit and tenancy, the PHA contracts with the owner to make rent subsidy payments on behalf of the family. A PHA may not approve a tenancy unless the rents is reasonable.

(3) In the certificate program, the rental subsidy is generally based on the actual rent of a unit leased by the assisted family. In the voucher program, the rental subsidy is determined by a formula.

(4)(i) In the certificate program, the subsidy for most families is the difference between the rent and 30 percent of adjusted monthly income.

(ii) In the voucher program, the subsidy is based on a local "payment standard" that reflects the cost to lease a unit in the local housing market. If the rent is less than the payment standard, the family generally pays 30 percent of adjusted monthly income for rent. If the rent is more than the payment standard, the family pays a larger share of the rent.

(b) *Tenant-based and project-based assistance.* (1) Section 8 assistance may be "tenant-based" or "project-based". In project-based programs, rental assistance is paid for families who live in specific housing developments or units. With tenant-based assistance, the assisted unit is selected by the family. The family may rent a unit anywhere in the United States in the jurisdiction of a PHA that runs a voucher program.

(2) To receive tenant-based assistance, the family selects a suitable unit. After approving the tenancy, the PHA enters into a contract to make rental subsidy payments to the owner to subsidize occupancy by the family. The PHA contract with the owner only covers a single unit and a specific assisted family. If the family moves out of the leased unit, the contract with the owner terminates. The family may move to another unit with continued assistance so long as the family is complying with program requirements.

[60 FR 34695, July 3, 1995, as amended at 64 FR 26640, May 14, 1999]

## § 982.2 Applicability.

(a) Part 982 is a unified statement of program requirements for the tenant-based housing assistance programs under Section 8 of the United States

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Housing Act of 1937 (42 U.S.C. 1437f). The tenant-based programs are the Section 8 tenant-based certificate program and the Section 8 voucher program.

(b) Unless specifically stated in this part, requirements for both tenant-based programs are the same.

[60 FR 34695, July 3, 1995, as amended at 64 FR 26640, May 14, 1999]

## § 982.3 HUD.

The HUD field offices have been delegated responsibility for day-to-day administration of the program by HUD. In exercising these functions, the field offices are subject to HUD regulations and other HUD requirements issued by HUD headquarters. Some functions are specifically reserved to HUD headquarters.

## § 982.4 Definitions.

(a) *Definitions found elsewhere:*

(1) *General definitions.* The terms *1937 Act*, *HUD*, and *MSA*, are defined in 24 CFR part 5, subpart A.

(2) *Definitions under the 1937 Act.* The terms "annual contributions contract (ACC)," "disabled family," "displaced family," "elderly family," "family," "live-in aide," "near-elderly family" and "person with disabilities" are defined in part 5, subpart D of this title.

(3) *Definitions concerning family income and rent.* The terms "adjusted income," "annual income," "extremely low income family," "tenant rent," "total tenant payment," "utility allowance," and "utility reimbursement" are defined in part 5, subpart F of this title. The definitions of "tenant rent" and "utility reimbursement" in part 5, subpart F of this title, apply to the certificate program, but do not apply to the tenant-based voucher program under part 982.

(b) In addition to the terms listed in paragraph (a) of this section, the following definitions apply:

*Absorption.* In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PPHA uses funds available under the receiving PHA consolidated ACC.

*Administrative fee.* Fee paid by HUD to the PHA for administration of the program. See § 982.152.

*Administrative fee reserve* (formerly "operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See § 982.155.

*Administrative plan.* The plan that describes PHA policies for administration of the tenant-based programs. See § 982.54.

*Admission.* The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

*Applicant* (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

*Budget authority.* An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

*Common space.* In shared housing: Space available for use by the assisted family and other occupants of the unit.

*Congregate housing.* Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see § 982.606 to § 982.609.

*Continuously assisted.* An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the certificate or voucher program.

*Cooperative* (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see § 982.619.

*Domicile.* The legal residence of the household head or spouse as determined in accordance with State and local law.

*Drug-related criminal activity.* As defined in 42 U.S.C. 1437f(f)(5).

*Drug-trafficking.* The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Fair market rent (FMR).* The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the FEDERAL REGISTER in accordance with 24 CFR part 888.

*Family rent to owner.* In the voucher program, the portion of rent to owner paid by the family. For calculation of family rent to owner, see § 982.515(b).

*Family self-sufficiency program* (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

*Family share.* The portion of rent and utilities paid by the family. For calculation of family share, see § 982.515(a).

*Family unit size.* The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

*Funding increment.* Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

*Gross rent.* The sum of the rent to owner plus any utility allowance.

*Group home.* A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see § 982.610 to § 982.614.

*HAP contract.* Housing assistance payments contract.

*Housing assistance payment.* The monthly assistance payment by a PHA, which includes:

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(1) A payment to the owner for rent to the owner under the family's lease; and

(2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

*Housing quality standards (HQS).* The HUD minimum quality standards for housing assisted under the tenant-based programs. See § 982.401.

*Initial PHA.* In portability, the term refers to both:

(1) a PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

(2) a PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

*Initial payment standard.* The payment standard at the beginning of the HAP contract term.

*Initial rent to owner.* The rent to owner at the beginning of the HAP contract term.

*Jurisdiction.* The area in which the PHA has authority under State and local law to administer the program.

*Lease.* (1) A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

(2) In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA. For purposes of this part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant."

*Manufactured home.* A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see § 982.620 and § 982.621.

*Manufactured home space.* In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by

the family is located on the space. See § 982.622 to § 982.624.

*Merger date.* October 1, 1999.

*Mutual housing.* Included in the definition of "cooperative."

*Notice of Funding Availability (NOFA).* For budget authority that HUD distributes by competitive process, the FEDERAL REGISTER document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

*Owner.* Any person or entity with the legal right to lease or sublease a unit to a participant.

*Participant* (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

*Payment standard.* The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

*PHA plan.* The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

*Portability.* Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

*Premises.* The building or complex in which the dwelling unit is located, including common areas and grounds.

*Private space.* In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

*Program.* The Section 8 tenant-based assistance program under this part.

*Program receipts.* HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

*Public housing agency (PHA).* PHA includes both:

(1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), and

(2) Any of the following:

(i) A consortium of housing agencies, each of which meets the qualifications

in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortium members);

(ii) Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**Reasonable rent.** A rent to owner that is not more than rent charged:

(1) For comparable units in the private unassisted market; and

(2) For comparable unassisted units in the premises.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Renewal units.** The number of units, as determined by HUD, for which funding is reserved on HUD books for a PHA's program. This number is used in calculating renewal budget authority in accordance with § 982.102.

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see § 982.615 to § 982.618.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see § 982.602 to § 982.605.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of this part 982. Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval of the tenancy, until the time when the PHA approves or denies the request.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent.** For a tenancy in the certificate program: The total tenant payment minus any utility allowance.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner. (See § 982.514(b)). (For the certificate program, "utility reimbursement" is defined in part 5, subpart F of this title.)

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

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*Voucher (rental voucher).* A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

*Waiting list admission.* An admission from the PHA waiting list.

*Welfare-to-work (WTW) families.* Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

[63 FR 23857, Apr. 30, 1998; 63 FR 31625, June 10, 1998; 64 FR 26641, May 14, 1999; 64 FR 49658, Sept. 14, 1999; 64 FR 56887, 56911, Oct. 21, 1999; 65 FR 16821, Mar. 30, 2000]

### § 982.5 Notices required by this part.

Where part 982 requires any notice to be given by the PHA, the family or the owner, the notice must be in writing.

## Subpart B—HUD Requirements and PHA Plan for Administration of Program

SOURCE: 60 FR 34695, July 3, 1995, unless otherwise noted.

### § 982.51 PHA authority to administer program.

(a) The PHA must have authority to administer the program. The PHA must provide evidence, satisfactory to HUD, of its status as a PHA, of its authority to administer the program, and of the PHA jurisdiction.

(b) The evidence submitted by the PHA to HUD must include enabling legislation and a supporting legal opinion satisfactory to HUD. The PHA must submit additional evidence when there is a change that affects its status as a PHA, authority to administer the program, or the PHA jurisdiction.

[60 FR 34695, July 3, 1995, as amended at 64 FR 26641, May 14, 1999]

### § 982.52 HUD requirements.

(a) The PHA must comply with HUD regulations and other HUD requirements for the program. HUD requirements are issued by HUD headquarters, as regulations, FEDERAL REGISTER no-

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tices or other binding program directives.

(b) The PHA must comply with the consolidated ACC and the PHA's HUD-approved applications for program funding.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

### § 982.53 Equal opportunity requirements.

(a) The tenant-based program requires compliance with all equal opportunity requirements imposed by contract or federal law, including the authorities cited at 24 CFR 5.105(a) and title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*

(b) *Civil rights certification.* The PHA must submit a signed certification to HUD that:

(1) The PHA will administer the program in conformity with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.

(2) The PHA will affirmatively further fair housing in the administration of the program.

(c) *Obligation to affirmatively further fair housing.* The PHA shall affirmatively further fair housing as required by § 903.7(o) of this title.

(d) *State and local law.* Nothing in part 982 is intended to pre-empt operation of State and local laws that prohibit discrimination against a Section 8 voucher-holder because of status as a Section 8 voucher-holder. However, such State and local laws shall not change or affect any requirement of this part, or any other HUD requirements for administration or operation of the program.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23859, Apr. 30, 1998; 64 FR 26641, May 14, 1999; 64 FR 56911, Oct. 21, 1999]

### § 982.54 Administrative plan.

(a) The PHA must adopt a written administrative plan that establishes local policies for administration of the